

REMARKS

Claims 1, 3 – 6, 10 – 16, 18, 19, 22, 23, 26, 27, and 29 – 39 have been examined and stand rejected under 35 U.S.C. §103(a) as unpatentable over “GIS in Banking: Evaluation of Canadian Banking Mergers,” Can. J. Reg. Sc. (2001) (“MacDonald”) in view of “CACI Information Solutions,” *Marketing Solutions Today* (Summer 2001) and “CACI Limited Home Page.”

The rejections are respectfully traversed because MacDonald is not prior art to the application. In response to Applicant’s previous request for evidence that MacDonald is prior art to the claims, the Office has provided a copy of a web site that associates the date of September 22, 2001 with the issue of the journal that contains MacDonald. It is well known that a nominal date associated with an issue of a journal is not necessarily its publication date (*see, e.g., Ex parte Albert*, 18 USPQ2d 1325 (BPAI 1990) (Examiner accepted that journal issue nominally dated as the “July-August” issue was not printed until November)). The evidence provided is thus insufficient to establish that MacDonald was available to the public before the filing date of the Application.

The undersigned directly contacted the Canadian Journal of Regional Science, in which MacDonald was published, and was informed that the issue of the journal that contained MacDonald was not published until after May 2002, well later than the filing date of the Application. The following evidence is submitted herewith to demonstrate that the publication date of MacDonald was later than the filing date of the application:

(1) a Declaration executed by Douglas W. Woodworth, who is the Assistant Editor of the Canadian Journal of Regional Science, stating that the issue of the journal that includes MacDonald was released to the public later than May 2002 (Exhibit A);

(2) a copy of a portion of the book-review section of the Autumn 2001 issue of the Canadian Journal of Regional Science (which also includes MacDonald) showing that it includes a review of a book identified as having been published in 2002 (Exhibit B); and

(3) a copy of a portion of the "Letter from the Editor" of the Autumn 2001 issue of the Canadian Journal of Regional Science (which also includes MacDonald) showing that it has a date of "May 2002" (Exhibit C).

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/Patrick M. Boucher/

Patrick M. Boucher
Reg. No. 44,037

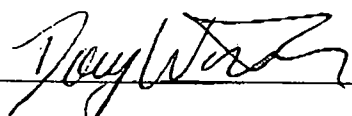
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Tel: 303-571-4000
Fax: 415-576-0300
Attachments
PMB:pmb
60796569 v1

EXHIBIT A

DECLARATION OF DOUGLAS W. WOODWORTH

I, Douglas W. Woodworth, being duly warned that willful false statements and the like are punishable by fine or imprisonment or both under 18 U.S.C. §1001, declare and state as follows:

1. All statements herein made of my own knowledge are true and statements made on information or belief are believed to be true.
2. I am Assistant Editor of The Canadian Journal of Regional Science and am familiar with its publication schedule.
3. The date on which the "Autumn 2001" issue of The Canadian Journal of Regional Science was released to the public was later than May 2002. That issue contains the article "GIS in Banking: Evaluation of Canadian Bank Mergers" by Eliot Hugh MacDonald.



Douglas W. Woodworth

Dated: June 6/06

EXHIBIT B



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This book is the second edition of a 1990 publication of the same name. There are enough differences between the two volumes, however, to make them distinct treatments of the same topic. Only five of the original authors edition appear in this volume. Three topics (social policy, transportation, urban planning) are included in both editions but are covered by different authors. Six new topics ...

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May 2002

This special issue of the Canadian Journal of Regional Science is devoted to geomatics in the retail and business field. Both the substantive issues dealt with and the specific suite of analytic and presentation tools thus lie firmly within the purview of regional science. We are most grateful for the financial support received from the Centre for the Study of Retail Activity, Ryerson University, Toronto, that has been put towards the production costs of this issue. We thank Dr. Ken Jones, Director of the Centre for the Study of Commercial Activity, for his support ...

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